

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

SEPTEMBER 16, 2003

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, September 16, 2003 at 9:00 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting called to order at 9:00 a.m. by Chairman ARTHUR SLATTERY

Present: Commissioners ARTHUR SLATTERY, MARTIN SMITH, PAULINE IKAWA, NANCY LeRoy, Executive Director BETH EMMONS, and Investigator ANN FLANAGAN.

- I. Motion by Commissioner HEATH, seconded by Commissioner LeRoy, to approve and accept the minutes of the Commission meeting held on August 19, 2003.

II. APPOINTMENTS

9:00 a.m. - Equivalency Interviews

<u>CANDIDATE</u>	<u>COMMISSIONER</u>	<u>DETERMINATION</u>
DAVE PAOLINI	SMITH	APPROVED
GREGORY KIRSCH	LeRoy	APPROVED

10:00 a.m. – J. BLAKENEY BARTLETT appeared before the Commission seeking clarification on the current reciprocity agreement between the New Hampshire and Vermont Real Estate Commission. Ms. Bartlett inquired about the current education and experience requirements for Vermont licensees who wish to obtain a license through reciprocity. After review and discussion, the Commission stated that when the Commission entered into the reciprocal agreement with the Vermont Real Estate Commission, there would be no education required by the reciprocal state, and that all licensees who apply for a license through reciprocity are not required to show proof of the educational requirements of RSA 331-A:10. The Commission stated that licensees who apply through reciprocity are required to show proof of one year of experience, pursuant to Rea 301.03 (c) and Rea 304.01. Ms. Bartlett stated to the Commission that the Vermont Real Estate Commission currently requires New Hampshire licensees who apply for a broker's license through reciprocity to complete a Vermont 8 hour broker course. The Commission directed the Executive Director to contact the Vermont Real Estate Commission to notify them that the original intent of the reciprocal agreement did not require licensees to complete additional education requirements in when applying for a license through reciprocity in the reciprocal state.

DISCUSSION

JOHN MORGAN of Morgan Testing Services submitted a letter to the Commission on the development of an educational book to be used as a study guide to prepare for the AMP general portion of the exam and inquired into whether the Commission would endorse the book and solicit the book to the educational providers and exam candidates. The Commission did not feel that it would be appropriate to endorse or solicit the sale of the book, but asked the Executive Director to notify Mr. Morgan that the Commission would supply him with a list of the current pre-licensing instructors.

The Commission's Education Program Assistant submitted to the Commission a pre-licensing weekend review course that included 6 and 8 hour sessions without scheduled breaks or lunch periods. The Education Program Assistant inquired as to whether classes of 4 hours or longer, which do not allow for breaks and lunch periods, should be approved. After review and discussion, the Commission decided that any class lasting longer than 4 hours is required to break for a minimum ½ hour lunch period and that the class time must be extended by the length of the lunch period. It was further decided that any 4 hour class is required to have a 15 minute break after about 2 hours and that this 15 minutes will be considered part of the 4 hour class time. It was noted that this decision does not apply to classes that are less than 4 hours long; if a break is given during a 3 hour class, the class time must be extended by the length of the break.

III. HEARING 9:37 AM

FILE NO. 2003-05-03 NEW HAMPSHIRE REAL ESTATE COMMISSION VS. JOHN R. ROBERGE

Evaluator: Commissioner LeRoy

The following persons were present at the hearing:

Commission: Commissioners ARTHUR SLATTERY, MARTIN SMITH, PAULINE IKAWA,
Executive Director BETH EMMONS and Investigator ANN FLANAGAN.

Evaluator: Commissioner LeRoy evaluated the above matter and abstained from participation in the discussion and resulting decisions.

Complainant: NH Real Estate Commission through its Investigator, Ann Flanagan

Attorney: Pro Se

Witnesses: None

Respondent: John R. Roberge (not present, failed to appear)

DECISION: Pending – subject to review of transcripts and exhibits.

IV. **OTHER BUSINESS**

1. Tuesday, October 14, 2003, was unanimously approved as the date for the next regular meeting.

2. CASE EVALUATIONS

(a) **FILE NO. 2002-11-01**

Evaluator: Commissioner LeRoy

Determination: Should be hearing, hearing to be scheduled. In the alternative, the Commission unanimously decided to offer the Respondent a Settlement Agreement with a disciplinary fine in the amount of \$100.

(b) **FILE NO. 2003-01-01**

Evaluator: Commissioner Slattery

Determination: Should be heard, hearing to be scheduled.

(c) **FILE NO. 2003-02-01**

Evaluator: Commissioner LeRoy

Determination: Upon a re-evaluation, the Commission unanimously decided to reverse its decision from no violation, should not be heard, to should be heard, hearing to be scheduled.

(d) **FILE NO. 2003-03-01**

Evaluator: Commission LeRoy

Determination: No violation, should not be heard.

(e) **FILE NO. 2003-04-02**

Evaluator: Commissioner LeRoy

Determination: No violation, should not be heard.

(f) **FILE NO. 2003-04-04**

Evaluator: Commissioner Slattery

Determination: Should be heard, hearing to be scheduled.

- (g) **FILE NO. 2003-04-05**
Evaluator: Commissioner Ikawa
Determination: Should be heard, hearing to be scheduled.
- (h) **FILE NO. 2003-05-02**
Evaluator: Commissioner LeRoy
Determination: No violation, should not be heard.
- (i) **FILE NO. 2003-05-07**
Evaluator: Commissioner Slattery
Determination: Should be heard, hearing to be scheduled. In the alternative, the Commission unanimously decided to offer the Respondent a Settlement Agreement with a disciplinary fine in the amount of \$300.
- (j) **FILE NO. 2003-05-08**
Evaluator: Commissioner Ikawa
Determination: Should be heard, hearing to be scheduled.
- (k) **FILE NO. 2003-06-01**
Evaluator: Commissioner Slattery
Determination: No violation, should not be heard.
- (l) **FILE NO. 2003-06-03**
Evaluator: Commissioner Ikawa
Determination: No violation, should not be heard.
- (m) **FILE NO. 2003-06-06**
Evaluator: Commissioner Slattery
Determination: No violation, should not be heard.
- (n) **FILE NO. 2003-06-07**
Evaluator: Commissioner LeRoy
Determination: No violation, should not be heard.

The above determinations were unanimously approved.

3. SETTLEMENT AGREEMENT

The following Settlement Agreement was issued by the New Hampshire Real Estate Commission. A copy of the Settlement Agreement is attached and becomes part of the official minutes of this meeting.

FILE NO. 2003-02-04 KENNETH B. FLOOD, JR. VS. JONATHAN S. EDWARDS
(THE PRUDENTIAL COLOUMBE REAL ESTATE, INC.)

VI. ADJOURNMENT

Motion by Commissioner LeRoy, seconded by Commissioner Smith to adjourn the meeting. Chairman Slattery adjourned the meeting at 11:00 a.m.

Respectfully submitted,



PAULINE A. IKAWA
Acting Clerk

BEFORE THE
NEW HAMPSHIRE REAL ESTATE COMMISSION
CONCORD NH 03301

In the Matter of:

File No. 2003-02-04 Kenneth B. Flood, Jr. vs. Jonathan S. Edwards (The Prudential
Coloumbe Real Estate, Inc.)
Allegations: Rea 701.01

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of real estate, the New Hampshire Real Estate Commission ("Commission") and Jonathan S. Edwards ("the Licensee" or "the Respondent"), a real estate broker currently licensed by the Commission until January 15, 2004, agree to resolve certain allegations of professional misconduct now pending before the Commission in accordance with the following terms and conditions:

1. The parties stipulate that the Commission has jurisdiction to institute a disciplinary proceeding against the Respondent pursuant to RSA 331-A:29, I and RSA 541-A:31, V, and if such a proceeding were commenced, the allegations against the Respondent would be:

After seeing several properties with the Respondent, the Complainant entered into a purchase & sales agreement to purchase a property located at 15 Wilson Street, Gorham, New Hampshire, which was listed by the Respondent's office. The Respondent was the selling agent but not the listing agent. The Complainant, in his notarized Form 11 complaint indicated that throughout the transaction he thought the Respondent was representing him, and that it was not until

the transaction went bad that the Respondent told the Complainant that the Respondent represented the seller exclusively. The Respondent in his notarized Form 11-A reply to the complaint indicated that he gave the Complainant an Agency Disclosure Form but the Respondent was unable to locate it. Therefore, the Commission finds the Respondent in violation of Rea 701.01.

2. The Respondent acknowledges and does not contest the allegations described in Paragraph 1 above.
3. The Respondent consents to the Commission imposing the following discipline, pursuant to RSA 331-A:28, I. The Respondent shall pay a disciplinary fine to the New Hampshire Real Estate Commission in the amount of One Hundred Dollars (\$100.00), made payable to the Treasurer, State of New Hampshire within thirty (30) days of the effective date of this Agreement.
4. The Respondent's failure to adhere to any requirement imposed by this Agreement shall be a separate and sufficient ground for disciplinary action by the Commission.
5. Except as provided in Item 3 and 4 above, this Agreement shall forever bar further disciplinary action or other adverse action by the Commission based upon the specific allegations described above in Paragraph 1, provided, however, that this Agreement may be considered by the Commission in determining whether the Respondent has engaged in a pattern of misconduct, or in determining the nature of any sanctions which may be imposed in any subsequent disciplinary proceeding arising out of different misconduct allegations.

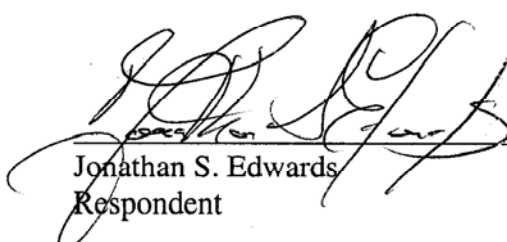
6. The Respondent voluntarily signs this Settlement Agreement and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
7. Respondent understands that his action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.
8. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this Agreement.
9. Respondent understands that the Commission must review and accept the terms of this Agreement. If the Commission rejects any portion, the entire Agreement shall be null and void. Respondent specifically waives any claims that any disclosures made to the Commission during its review of this Agreement have prejudiced his right to a fair and impartial hearing in the future if this Agreement is not accepted by the Commission.
10. Respondent certifies that he has read this document titled Settlement Agreement.

Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this Agreement, he waives these rights as they pertain to the misconduct described herein.
11. The effective date of this Agreement shall be on the date it is signed by the representative of the Commission shown below.

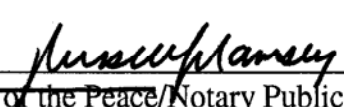
For the Respondent

I, Jonathan S. Edwards, have reviewed the forgoing Settlement Agreement settling misconduct allegations pending against me, and, of my own free will and without duress, and being knowledgeable about all of the consequences, admit to the validity thereof, and agree to all of the terms of this Settlement Agreement. Further, I knowingly and freely waive my right to further notice, opportunity for hearing, substantial evidence, and findings and conclusions with regard to the allegations, which have been settled by the terms of this Settlement Agreement.

Dated: 9/4, 2003


Jonathan S. Edwards
Respondent


On this 4 day of September A.D. 2003
personally appeared the person who subscribe to the following instrument and acknowledged the same as his/her voluntary act and deed before me.


Justice of the Peace/Notary Public

My commission expires
RUSSELL J. RAMSEY
Notary Public - New Hampshire
My Commission Expires October 4, 2005

For the Commission

Dated: September 16, 2003


Beth A. Emmons
Executive Director
of the NH Real Estate Commission